# Comelec urged to cancel Marcos Jr.'s presidential bid over tax evasion conviction

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Ferdinand "Bongbong" Marcos Jr. gives a speech announcing his intention to run for the presidency in the 2022 national elections on October 5, 2021. *Handout, Office of Ferdinand "Bongbong" R. Marcos Jr/File*

MANILA **(UPDATED)** - Civic groups on Tuesday filed a petition at the Commission of Elections (Comelec) to either cancel or deny the certificate of candidacy (COC) of presidential aspirant Ferdinand "Bongbong" Marcos, Jr. over his supposed "false material representation."

In a 57-page petition to the Comelec, representatives from Task Force Detainees of PH, KAPATID, Medical Action Group, FIND, PH Alliance of Human Rights Advocates and Balay questioned Marcos Jr.'s eligibility to run for the country's top job because he has been convicted of tax evasion.

Marcos Jr.'s' 1995 conviction for tax evasion should prevent him from running for president, even if the Court of Appeals in 1997 reduced the penalty to a mere fine, according to the petitioners.

Marcos Jr. was convicted for failure to file mandatory income tax returns from 1982 to 1985.

Mere conviction, according to the petitioners, perpetually disqualifies him from running for any public office.

Under section 252 of the 1977 National Internal Revenue Code (old Tax Code), if the offender who committed a crime is a public officer, he/she shall be "perpetually disqualified from holding any public office," from voting or from participating in any elections.

At the time his conviction became final in 2001 when he withdrew his appeal to the Supreme Court, Marcos Jr. was governor of Ilocos Norte, a post he held from June 1998 to June 2007.

Petitioners also argued that his supposed repeated failure to file his income tax returns and the failure to pay estate taxes initially amounting to P23 billion (now P203.8 billion) are crimes involving moral turpitude, rendering him ineligible to hold public office.

Moral turpitude refers to an "act of baseness, vileness, or depravity in the private duties..." and "encompasses everything which is done contrary to justice, honesty, or good morals."

Section 12 of the Omnibus Election Code considers conviction for a crime involving moral turpitude a ground for disqualifying a person from running, unless pardoned or granted amnesty.

The estate taxes were due upon the death of his father, the dictator Ferdinand Marcos, Sr. in Hawaii in 1989.

Marcos Jr. acted as both heir to the estate of Marcos Sr. and as the court-appointed administrator.

“[T]he heirs of the late corrupt dictator, President Marcos, Sr., particularly his son, respondent Marcos Jr.’s continuous and unjustified refusal to pay the massive estate taxes due on the estate of the late corrupt dictator, coupled with his previous convictions for similarly violating the 1977 NIRC, as ruled in CA-G.R. CR No. 18569, betrays his willful evasion of his duty to the society to file his tax returns, and more importantly, to pay his taxes. Clearly this repeated evasion of his positive duty to the society equates to moral turpitude,” the petitioners said.

A third ground was also raised by the petitioners against Marcos: the tax evasion conviction carried with it a mandatory penalty of more than 18 months jail time which is a ground for disqualifying him from running for any public office under the Omnibus Election Code.

The Court of Appeals affirmed Marcos Jr.'s conviction in 1997 but merely imposed a fine. He appealed the ruling before the Supreme Court but later withdrew it in 2001.

Petitioners argued it was improper for CA to impose only a fine since the old Tax Code clearly imposed both fines and jail time.

Lastly, petitioners claimed that Marcos "falsely declared under oath that he is eligible for the office he seeks to be elected to" and that he also "falsely declared under oath" he has never been found liable for an offense with penalty of perpetual disqualification to hold public office.

The filing of a certificate of candidacy requires a person seeking to run for public office to make these declarations under oath.

Petitioners argued these are material representations, citing the prior cases involving mayoral aspirant Dominador Jalosjos, Jr. and congressional aspirant Philip Pichay who

were both disqualified due to false material representation when they claimed they were eligible despite previous convictions.

Jalosjos was convicted of robbery while Pichay was convicted of libel.

Under section 78 of the Omnibus Election Code, a petition to deny due course to or cancel a COC may be filed on the ground of "false material representation" not later than 25 days from filing of COC and shall be decided, after notice and hearing, not later than 15 days before election.

Marcos Jr. filed his COC on October 6. Although the 25th day was on October 31st, a Sunday, the deadline of filing of petitions and pleadings in tribunals usually falls on the next regular working day following a weekend or a holiday. Monday was a holiday.

But the petitioners argued that even without any petitioner filing a case against Marcos Jr., the Comelec can exercise its mandate to enforce and administer all laws relating to the conduct of the elections, including the duty to cancel the COC of a disqualified person running for public office.

Marcos Jr. was the third aspirant to sign up last month for the May 2022 presidential polls, promising he would be a "unifying" leader to help the Philippines tackle the pandemic and economic crises.

His COC filing was met with protests by human rights groups, denouncing the alleged attempt of the son and namesake of late dictator Ferdinand Marcos to return his family to power by vying for the presidency.

The Marcos family has long sought to rebuild its image and has repeatedly denied allegations that it plundered state wealth while in power, estimated in 1987 at $10 billion.